

06 a printer for printing said code upon a medium.

REMARKS

A marked-up version of the rewritten claims is attached hereto.

Claims 1-39 now positively recite that the representation is printed on a medium, e.g., a mailpiece. Regarding the other requirement cited by the Examiner, e.g., the printed matter influencing the physical design of the computer and being related to the design of the computer, it is noted that the CAFC has stated:

"A functional relationship of the precise type found by the CCPA in Miller - to size or to type of substrate, or conveying information about substrate - is not required. What is required is the existence of differences between the appealed claims and the prior art sufficient to establish patentability. The bare presence or absence of a specific functional relationship, without further analysis, is not dispositive of obviousness. Rather, the critical question is whether there exists any new and unobvious functional relationship between the printed matter and the substrate." In re Gulack, 217 USPQ 401, 404.

Here there is a new and unobvious relationship of the printing order to the substrate, i.e., the ordering of the postal data elements. Further, in In re Lowry, 32 USPQ2d 1031, 1034, the same court has stated:

"The printed matter cases have no factual relevance where the invention as defined by the claims requires that the information

be processed not by the mind but by a machine, the computer."
And:

"While the information content affects the exact sequence of bits stored in accordance with Lowry's data structures, the claims require specific electronic structural elements which impart a physical organization on the information stored in memory."

Here, since a processor, i.e., a computer, is recited, printed matter cases are irrelevant. Further, since a physical organization (the order of the elements) is recited, the limitations must be given patentable weight. Thus claims 2-6, 8-12, 14-19, 21-24, 27-32, 35-39, and 41-45 conform to 37 CFR 1.75 (c) by further limiting their respective parent claims.

Since Whitney fails to disclose the order concept, the rejection of claims 1-39 under 35 USC 102 on Whitney should be withdrawn. Also, since this reference fails to suggest the order concept, claims 1-39 are unobvious.

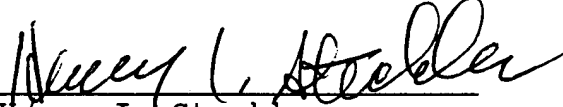
Admittedly, the Wright Medical and K-2 Corp. cases do not deal with printed matter. However, they do deal with the issue of functionality, i.e., functional limitations must be given patentable weight. Since Herbert does not disclose or suggest that "...the size of the gap being a function of the size of the delimiter" as recited in claim 40, claims 40-45 are patentable.

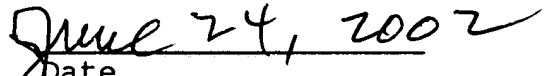
For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should

any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,


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Application No.: 09/308,451

Marked Up Claim(s)

1. (Amended) Apparatus for processing a plurality of postal data elements, a first one of the plurality of postal data elements being a function of at least a second one of the plurality of postal data elements, the apparatus comprising:

a processor for arranging the plurality of postal data elements in an order where the second postal data element precedes the first postal data element; [and]

an output for providing a representation representing the plurality of postal data elements in the arranged order[.];
and

a printer for printing said representation upon a medium.

8. (Amended) Apparatus for processing a plurality of postal data elements, the apparatus comprising:

a processor for arranging the plurality of postal data elements in an order such that each postal data element preceding a second postal data element is independent of the second postal data element; [and]

an output for providing a representation representing the plurality of postal data elements in the arranged order[.];
and

a printer for printing said representation upon a medium.

13. (Amended) Apparatus for conducting a postage franking transaction to generate a representation representing data, the apparatus comprising:

a processor for identifying a first subset of the data which is unaffected by the postage franking transaction and a second subset of the data which is subject to change during the postage franking transaction; [and]

an output for providing a representation representing the first subset of the data and the second subset of the data, the representation being partitioned into a first part and a second part thereof, the first subset of the data and the second subset of the data being represented by the first part and the second part, respectively[.]; and

a printer for printing said representation upon a medium.

21. (Amended) Apparatus for conducting postage franking transaction, the apparatus comprising:

a processor for processing a plurality of data elements; [and]

an output for generating at least a first symbol and a second symbol representing the data elements, at least part of the first symbol representing a first subset of the data elements which is unaffected by the postage franking transaction, and at least part of the second symbol representing a second subset of the data elements which is

subject to change during the postage franking transaction[.]; and

a printer for printing said symbols upon a medium.

26. (Amended) Apparatus for generating a postage indicium based on at least first data, the first data being a function of second data, the apparatus comprising:

a processor for determining at least one candidate for the first data based on a predicted version of the second data;

a comparator for comparing an actual version of the second data with the predicted version thereof; [and]

an output for generating the postage indicium based on the candidate for the first data when the actual version matches the predicted version[.]; and

a printer for printing said indicium upon a medium.

34. (Amended) Apparatus for creating a postage indicium representing a plurality of data elements, and at least one code for authenticating selected ones of the data elements, the apparatus comprising:

an interface for receiving a request for creating the postage indicium; [and]

a processor for performing computations to generate the code, selected ones of the computations being performed before

the request is received, the code being generated based on results of the selected computations after the request is received[.]; and

a printer for printing said code upon a medium.